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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

NOVELTY TEXTILE, INC., a California  
Corporation,

Plaintiff,

v.

GOJANE.COM, a California Corporation;  
BETTER BE, INC., a California  
Corporation; and DOES 1-10,

Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR  
CONTRIBUTORY COPYRIGHT  
INFRINGEMENT

Jury Trial Demanded

NOVELTY TEXTILE, INC., by and through its undersigned attorneys, hereby  
prays to this honorable Court for relief based on the following:

**JURISDICTION AND VENUE**

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C.,  
§§ 101, *et seq.*



1           8. Defendants DOES 1 through 10, inclusive, are other parties not yet  
2 identified who have infringed Plaintiff's copyrights, have contributed to the  
3 infringement of Plaintiff's copyrights, or have engaged in one or more of the  
4 wrongful practices alleged herein. The true names, whether corporate, individual or  
5 otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff,  
6 which therefore sues said Defendants by such fictitious names, and will seek leave to  
7 amend this Complaint to show their true names and capacities when same have been  
8 ascertained.

9           9. Plaintiff is informed and believes and thereon alleges that at all times  
10 relevant hereto each of the Defendants was the agent, affiliate, officer, director,  
11 manager, principal, alter-ego, and/or employee of the remaining Defendants and was  
12 at all times acting within the scope of such agency, affiliation, alter-ego relationship  
13 and/or employment; and actively participated in or subsequently ratified and adopted,  
14 or both, each and all of the acts or conduct alleged, with full knowledge of all the  
15 facts and circumstances, including, but not limited to, full knowledge of each and  
16 every violation of Plaintiff's rights and the damages to Plaintiff proximately caused  
17 thereby.

18                           **CLAIMS RELATED TO DESIGN NO. 1020**

19           10. Plaintiff owns an original two-dimensional artwork used for purposes of  
20 textile printing entitled 1020 (the "Subject Design"). The Subject Design is an  
21 original work of authorship, and is, and at all relevant times was, owned in  
22 exclusivity by Plaintiff.

23           11. Plaintiff applied for and received a United States Copyright Registration  
24 for the Subject Design prior to the commencement of this Action.

25           12. Prior to the acts complained of herein, Plaintiff widely disseminated  
26 fabric bearing the Subject Design to numerous parties in the fashion and apparel  
27 industries.

13. Plaintiff is informed and believes and thereon alleges that, following this distribution of fabric bearing the Subject Design and without Plaintiff's authorization, Defendants manufactured, distributed, and/or sold fabric and/or garments comprised of fabric featuring a design which is identical or substantially similar to the Subject Design (the "Subject Product"), including but not limited to garments sold by GOJANE under Style No. P-5597-A / Code No. 94727-PINK-Flower Hour Abstract Print Leggings and Style No. D-10534 / Code No.96274-MINT-Pretty In Paint Cut-Out Floral Dress. Such Subject Product bore the label "Better Be," indicating that said garments were manufactured by, caused to be manufactured by, or supplied by BETTER BE or DOE Defendants.

14. A comparison of the Subject Design and two exemplars of the Subject Product is displayed below. It is apparent that the elements, composition, arrangement, layout, and appearance of the designs at issue are identical or substantially similar:

SUBJECT DESIGN



SUBJECT PRODUCT EXEMPLARS





### **FIRST CLAIM FOR RELIEF**

(For Copyright Infringement - Against All Defendants)

1. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.

2. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Design, including, without limitation, through (a) access to Plaintiff's showroom and/or design library; (b) access to illegally distributed copies of the Subject Design by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) access to garments manufactured with fabric lawfully printed through Plaintiff.

3. Plaintiff is informed and believes and thereon alleges that one or more of the Defendants manufactures garments and/or is a garment vendor. Plaintiff is

1 further informed and believes and thereon alleges that said Defendant(s) has an  
2 ongoing business relationship with Defendant retailer, and each of them, and supplied  
3 garments to said retailer, which garments infringed the Subject Design in that said  
4 garments were composed of fabric which featured an unauthorized print design that  
5 was identical or substantially similar to the Subject Design.

6 4. Plaintiff is informed and believes and thereon alleges that Defendants,  
7 and each of them, infringed Plaintiff's copyright by creating, making and/or  
8 developing directly infringing and/or derivative works from the Subject Design and  
9 by producing, distributing and/or selling garments which infringe the Subject Design  
10 through a network of retail stores and on-line outlets.

11 5. Due to Defendants' acts of infringement, Plaintiff has suffered substantial  
12 damages to its business in an amount to be established at trial.

13 6. Due to Defendants' acts of infringement, Plaintiff has suffered general  
14 and special damages in an amount to be established at trial.

15 7. Due to Defendants' acts of copyright infringement as alleged herein,  
16 Defendants, and each of them, have obtained direct and indirect profits they would  
17 not otherwise have realized but for their infringement of the Subject Design. As such,  
18 Plaintiff is entitled to disgorgement of Defendant's profits directly and indirectly  
19 attributable to Defendant's infringement of the Subject Design in an amount to be  
20 established at trial.

21 **SECOND CLAIM FOR RELIEF**

22 (For Vicarious and/or Contributory Copyright Infringement - Against All  
23 Defendants)

24 8. Plaintiff repeats, realleges and incorporates herein by reference as though  
25 fully set forth the allegations contained in the preceding paragraphs of this  
26 Complaint.





1 through their infringement, the exact sum to be proven at the time of  
2 trial, or, if elected before final judgment, statutory damages as available  
3 under the Copyright Act, 17 U.S.C. §§ 101, *et seq.*;

4 c. That Plaintiff be awarded its attorneys' fees as available under the  
5 Copyright Act U.S.C. §§ 101, *et seq.*;

6 d. That Plaintiff be awarded pre-judgment interest as allowed by law;

7 e. That Plaintiff be awarded the costs of this action; and

8 f. That Plaintiff be awarded such further legal and equitable relief as the  
9 Court deems proper.

10  
11 A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND  
12 CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED.

13  
14 Dated: February 23, 2015

By: /s/ Scott Alan Burroughs  
Scott Alan Burroughs, Esq.  
Trevor W. Barrett, Esq.  
DONIGER / BURROUGHS  
Attorneys for Plaintiff  
Novelty Textile, Inc.